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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/685,814	10/15/2003	Lindy Palant	121563.00002 ORD	5115
26707	7590	05/04/2004	EXAMINER	
QUARLES & BRADY LLP RENAISSANCE ONE TWO NORTH CENTRAL AVENUE PHOENIX, AZ 85004-2391			HALE, GLORIA M	
			ART UNIT	PAPER NUMBER
			3765	

DATE MAILED: 05/04/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/685,814	PALANT, LINDY	
	Examiner	Art Unit	
	Gloria Hale	3765	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☐ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>10-15-03</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Specification

The use of the trademark VELCRO has been noted in this application. It should be capitalized wherever it appears and be accompanied by the generic terminology hook and loop fastener.

Although the use of trademarks is permissible in patent applications, the proprietary nature of the marks should be respected and every effort made to prevent their use in any manner which might adversely affect their validity as trademarks.

The disclosure is objected to because of the following informalities: The "first person language" of "I" and "My" should be changed to general terms. The "Background" information should be discussed as there being no known bibs to protect etc in the same fashion as the present invention and the language of "when searching etc." should be deleted..

Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-6 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, line 5 there is no antecedent basis for "back surface" and in claim 2, line 2, "the edges". In claim 3 the tradename VELCRO renders the claim indefinite since it only

identifies a source of material and not the material itself. The generic terminology should be used in place of the tradename.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1,2 and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Williams (US 2,498,471).

Williams discloses a clothing protector comprising a sleeveless shirt like member made of flexible material with a front (2_ and rear (3) surface attached at the first shoulder and first side (the outer side) and with the front and back surface having a second shoulder piece and second side piece with detachably connectable attachment means (13,14) and wherein the fabric tape (14) is sewn to the edges. The Williams bib functions as claimed in claim 7. (See Williams figures 1, 2 and 8 and col. 2, line 17 – col. 3, line 9).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Williams in view of Gershman.

Williams discloses the invention substantially as claimed except for the hook and loop fastener. Gershman discloses the substitution of various fasteners for each other such as snaps with hook and loop fasteners for greater ease in fastening and unfastening. Accordingly it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the fasteners of Williams with the teaching of Gershman to substitute the snaps with the hook and loop fasteners for ease in fastening and unfastening.

Claims 1-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Adkins (US 5,611,087) in view of Grassick (US 5,564,123).

Adkins discloses a clothing protector, a shirt like garment (10) with a front (12) and rear (14) surfaces with conventional permanently connected shoulder, sides and detachably connected shoulders (30) and side seams (36) as seen in figure 3 and col. 3, line 39 – col. 4, line 34). However, the garment of Adkins does not disclose the garment as being sleeveless. Grassick discloses a sleeveless garment as seen in figure 4. Such sleeveless garments are well known to provide comfort to a wearer. Accordingly it would have been obvious to one having ordinary skill in the art at the time the invention was made to protect the main torso of a wearer with a garment without sleeves in order to provide comfort and freedom of movement to the wearer so that the wearer is not encumbered by the sleeves. In regard to claim 2 the hook and loop fasteners sewn to the edge of the Adkins garment (30,36) is fabric tape as broadly claimed.

Claims 4-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Adkins in view of Grassick as applied to claims 1-3 above, and further in view of Fenninger et al (US 4,458,364).

Adkins and Grassick disclose the invention substantially as claimed. However, they do not disclose the material including two layers with decorative and solid fabrics for aesthetic purposes and as being water resistant nylon material. Fenninger et al discloses the use of multiplayer synthetic material to protect a wearer from contacting fluids. It is also well known to use water resistant nylon in such protective bib garments since the material is widely known to be used for such end uses and to protect a wearer from fluids such as in athletic swim shorts, rain garments and umbrellas in addition to bibs and hairstyling capes. Accordingly it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the protector of Adkins and Grassick to use any known protective material such as those disclosed by Fenninger et al which is appropriate for the desired end use such as water resistance and to use any known decorative surfaces on the fabric to achieve a desired aesthetic effect since such a selection of materials is within one of ordinary skill in the art and is an obvious design expedient.

Claims 4-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Williams as applied to claim 1 above, and further in view of Fenninger et al (US 4,458,364).

Williams discloses the invention substantially as claimed. However, they do not disclose the material including two layers with decorative and solid fabrics for aesthetic

purposes and as being water resistant nylon material. Fenninger et al discloses the use of multiplayer synthetic material to protect a wearer from contacting fluids. It is also well known to use water resistant nylon in such protective bib garments since the material is widely known to be used for such end uses and to protect a wearer from fluids such as in athletic swim shorts, rain garments and umbrellas in addition to bibs and hairstyling capes. Accordingly it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the protector of Williams to use any known protective material such as those disclosed by Fenninger et al which is appropriate for the desired end use such as water resistance and to use any known decorative surface s on the fabric to achieve a desired aesthetic effect since such a selection of materials is within one of ordinary skill in the art and is an obvious design expedient.

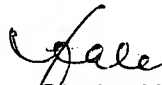
Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gloria Hale whose telephone number is 703-308-1282. The examiner can normally be reached on Tuesday-Friday.

The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Gloria Hale
Primary Examiner
Art Unit 3765
